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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,365	04/09/2004	Yeok Sing Sio	KL0433US (#90232)	1208

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EXAMINER	
ESTREMSKY, GARY WAYNE	

ART UNIT	PAPER NUMBER
3676	

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/821,365	SIO, YEOK SING	
	Examiner	Art Unit	
	Gary Estremsky	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *4/9/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 5, and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear which 'member' recitation of "the member" refers to or which 'catch member" said catch member" refers to. It is suggested that –can—or –is able to—or – is adapted to—be inserted before "flexes" inasmuch 'as best understood', the claim is for a *product*, not a *process of using*. See MPEP 2173.05(p) section II. Similar consideration applies to limitations of claims 5 and 6. clarification and/or correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,050,322 to Miller.

Miller '322 teaches Applicant's claim limitations including : "first and second catch members" - 9,17, "each comprising a shaft" - the narrow portion leading up to hooked engaging end, "base" - the portion immediately adjacent to the 'shaft' that is generally perpendicular to the respective shaft. As regards the functionally-recited 'prying' limitation, it is the examiner's position that the claimed invention does not include a prying instrument such as a screwdriver, and the recitation is not intended as, and should not be interpreted as a *step* in a *process of using* where the claimed invention is a *product*. See MPEP 2173.05(p) section II as regards *product* and *process of using* in the same claim. The limitation is interpreted as a capability, but it's noted that it does not further define any particular structure. It has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. In this case, it's noted that a prying tool such as a screwdriver inserted in the space between 4a and 9 in Fig 3 for example will cause the narrow space between said first and second members to increase and for the flexible projections to flex towards each other,... .

As regards claim 2, with prying as indicated above, both catch members (9,17) would flex away from the member (B) to which catch member 9 is attached.

As regards claim 13, spring 18 reads on functional recitation very broadly defining the "lock member" where its structure is not defined.

5. Claims 1-6 and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,971,580 to Tantlinger.

Tantlinger '580 teaches Applicant's claim limitations including : "first and second catch members" - 17,30, "each comprising a shaft" - the narrow portion leading up to hooked engaging end, "base" - the portion immediately adjacent to the 'shaft' that is generally perpendicular to the respective shaft. As regards the functionally-recited 'prying' limitation, it has been interpreted as a capability, but it's noted that it does not further define any particular structure. In this case, it's noted that a prying tool such as a screwdriver inserted in the space between 10,15 in Fig 1 for example will cause the narrow space between said first and second members to increase and for the flexible projections to flex towards each other with increased bearing stress.

As regards claim 12, Tantlinger '580 discloses rows of windows, inherently disclosing "at least four catch members", ie a pair on at least each window, each catch members of each pair in opposition the other of the pair.

As regards claim 13, part 35 reads on functional recitation defining the "lock member" where its structure is not defined.

6. Claims 1-3, 5-7, and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,446,824 to Sluiter

Sluiter '824 teaches Applicant's claim limitations including : "first and second catch members" – 32,35, "each comprising a shaft" - the narrow portion leading up to hooked engaging end, "base" - the portion immediately adjacent to the 'shaft' that is

generally perpendicular to the respective shaft. As regards the functionally-recited 'prying' limitation, it has been interpreted as a capability, but it's noted that it does not further define any particular structure. In this case, it's noted that a prying tool such as a screwdriver inserted in the space between 31,35 in Fig on the face of the Patent for example will cause the narrow space between said first and second members to increase and for the flexible projections to flex towards each other with increased bearing stress.

As regards claim 7, see Fig. 7 for example.

As regards claim 13 and 15, the portions of 28 that grasp 26 read on broad limitation of :lock member" where no structure of that member is defined in the claim that might be relied upon to patentably distinguish from the noted structure of the prior art where it's noted that pushing the noted portions of 28 towards 25/27 moves the arrangement into the assembled/"locked position".

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 4,068,872 to Smith.

U.S. Pat. No. 4,653,783 to Steup.

U.S. Pat. No. 5,975,593 to Cress.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary Estremsky
Primary Examiner
Art Unit 3676